

## **Part 3A**

### **Municipality Transient Room Tax**

#### **59-12-352 Transient room tax authority for municipalities and military installation development authority -- Purposes for which revenues may be used.**

- (1)
  - (a) Except as provided in Subsection (5), the governing body of a municipality may impose a tax of not to exceed 1% on charges for the accommodations and services described in Subsection 59-12-103(1)(i).
  - (b) Subject to Section 63H-1-203, the military installation development authority created in Section 63H-1-201 may impose a tax under this section for accommodations and services described in Subsection 59-12-103(1)(i) within a project area described in a project area plan adopted by the authority under Title 63H, Chapter 1, Military Installation Development Authority Act, as though the authority were a municipality.
- (2) Subject to the limitations of Subsection (1), a governing body of a municipality may, by ordinance, increase or decrease the tax under this part.
- (3) A governing body of a municipality shall regulate the tax under this part by ordinance.
- (4) A municipality may use revenues generated by the tax under this part for general fund purposes.
- (5)
  - (a) A municipality may not impose a tax under this section for accommodations and services described in Subsection 59-12-103(1)(i) within a project area described in a project area plan adopted by the authority under Title 63H, Chapter 1, Military Installation Development Authority Act.
  - (b) Subsection (5)(a) does not apply to the military installation development authority's imposition of a tax under this section.

Amended by Chapter 92, 2009 General Session

#### **59-12-353 Additional municipal transient room tax to repay bonded or other indebtedness.**

- (1) Subject to the limitations of Subsection (2), the governing body of a municipality may, in addition to the tax authorized under Section 59-12-352, impose a tax of not to exceed .5% on charges for the accommodations and services described in Subsection 59-12-103(1)(i) if the governing body of the municipality:
  - (a) before January 1, 1996, levied and collected a license fee or tax under Section 10-1-203; and
  - (b) before January 1, 1997, took official action to obligate the municipality in reliance on the license fees or taxes under Subsection (1)(a) to the payment of debt service on bonds or other indebtedness, including lease payments under a lease purchase agreement.
- (2) The governing body of a municipality may impose the tax under this section until the sooner of:
  - (a) the day on which the following have been paid in full:
    - (i) the debt service on bonds or other indebtedness, including lease payments under a lease purchase agreement described in Subsection (1)(b); and
    - (ii) refunding obligations that the municipality incurred as a result of the debt service on bonds or other indebtedness, including lease payments under a lease purchase agreement described in Subsection (1)(b); or
  - (b) 25 years from the day on which the municipality levied the tax under this section.

Amended by Chapter 258, 2015 General Session

**59-12-354 Collection of tax -- Administrative charge.**

- (1) Except as provided in Subsections (2) and (3), the tax authorized under this part shall be administered, collected, and enforced in accordance with:
  - (a) the same procedures used to administer, collect, and enforce the tax under:
    - (i) Part 1, Tax Collection; or
    - (ii) Part 2, Local Sales and Use Tax Act; and
  - (b) Chapter 1, General Taxation Policies.
- (2)
  - (a) The location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.
  - (b) The commission:
    - (i) except as provided in Subsection (2)(b)(ii), shall distribute the revenue collected from the tax to the municipality within which the revenue was collected; and
    - (ii) shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenue the commission collects from a tax under this part.
- (3) A tax under this part is not subject to Section 59-12-107.1 or 59-12-123 or Subsections 59-12-205(2) through (7).

Amended by Chapter 364, 2016 General Session

**59-12-355 Enactment or repeal of tax -- Tax rate change -- Effective date -- Notice requirements.**

- (1) For purposes of this section:
  - (a) "Annexation" means an annexation to a city or town under Title 10, Chapter 2, Part 4, Annexation.
  - (b) "Annexing area" means an area that is annexed into a city or town.
- (2)
  - (a) Except as provided in Subsection (2)(c), if, on or after July 1, 2004, a city or town enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or change shall take effect:
    - (i) on the first day of a calendar quarter; and
    - (ii) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (2)(b) from the city or town.
  - (b) The notice described in Subsection (2)(a)(ii) shall state:
    - (i) that the city or town will enact or repeal a tax or change the rate of a tax under this part;
    - (ii) the statutory authority for the tax described in Subsection (2)(b)(i);
    - (iii) the effective date of the tax described in Subsection (2)(b)(i); and
    - (iv) if the city or town enacts the tax or changes the rate of the tax described in Subsection (2)(b)(i), the rate of the tax.
  - (c)
    - (i) Notwithstanding Subsection (2)(a), for a transaction described in Subsection (2)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the first billing period:
      - (A) that begins after the effective date of the enactment of the tax or the tax rate increase; and
      - (B) if the billing period for the transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under:

- (I) Section 59-12-352; or
    - (II) Section 59-12-353.
  - (ii) Notwithstanding Subsection (2)(a), for a transaction described in Subsection (2)(c)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last billing period:
    - (A) that began before the effective date of the repeal of the tax or the tax rate decrease; and
    - (B) if the billing period for the transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under:
      - (I) Section 59-12-352; or
      - (II) Section 59-12-353.
  - (iii) Subsections (2)(c)(i) and (ii) apply to transactions subject to a tax under Subsection 59-12-103(1)(i).
- (3)
- (a) Except as provided in Subsection (3)(c), if, for an annexation that occurs on or after July 1, 2004, the annexation will result in the enactment, repeal, or change in the rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take effect:
    - (i) on the first day of a calendar quarter; and
    - (ii) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (3)(b) from the city or town that annexes the annexing area.
  - (b) The notice described in Subsection (3)(a)(ii) shall state:
    - (i) that the annexation described in Subsection (3)(a) will result in an enactment, repeal, or change in the rate of a tax under this part for the annexing area;
    - (ii) the statutory authority for the tax described in Subsection (3)(b)(i);
    - (iii) the effective date of the tax described in Subsection (3)(b)(i); and
    - (iv) if the city or town enacts the tax or changes the rate of the tax described in Subsection (3)(b)(i), the rate of the tax.
  - (c)
    - (i) Notwithstanding Subsection (3)(a), for a transaction described in Subsection (3)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the first billing period:
      - (A) that begins after the effective date of the enactment of the tax or the tax rate increase; and
      - (B) if the billing period for the transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under:
        - (I) Section 59-12-352; or
        - (II) Section 59-12-353.
    - (ii) Notwithstanding Subsection (3)(a), for a transaction described in Subsection (3)(c)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last billing period:
      - (A) that began before the effective date of the repeal of the tax or the tax rate decrease; and
      - (B) if the billing period for the transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under:
        - (I) Section 59-12-352; or
        - (II) Section 59-12-353.
    - (iii) Subsections (3)(c)(i) and (ii) apply to transactions subject to a tax under Subsection 59-12-103(1)(i).

Amended by Chapter 255, 2004 General Session

**59-12-357 Seller or certified service provider reliance on commission information.**

A seller or certified service provider is not liable for failing to collect a tax at a tax rate imposed under this part if the seller's or certified service provider's failure to collect the tax is as a result of the seller's or certified service provider's reliance on incorrect data provided by the commission in a database created by the commission:

- (1) containing tax rates, boundaries, or local taxing jurisdiction assignments; or
- (2) indicating the taxability of tangible personal property, a product transferred electronically, or a service.

Amended by Chapter 203, 2009 General Session

**59-12-358 Certified service provider or model 2 seller reliance on commission certified software.**

- (1) Except as provided in Subsection (2) and subject to Subsection (4), a certified service provider or model 2 seller is not liable for failing to collect a tax required under this part if:
  - (a) the certified service provider or model 2 seller relies on software the commission certifies; and
  - (b) the certified service provider's or model 2 seller's failure to collect a tax required under this part is as a result of the seller's or certified service provider's reliance on incorrect data:
    - (i) provided by the commission; or
    - (ii) in the software the commission certifies.
- (2) The relief from liability described in Subsection (1) does not apply if a certified service provider or model 2 seller incorrectly classifies an item or transaction into a product category the commission certifies.
- (3) If the taxability of a product category is incorrectly classified in software the commission certifies, the commission shall:
  - (a) notify a certified service provider or model 2 seller of the incorrect classification of the taxability of a product category in software the commission certifies; and
  - (b) state in the notice required by Subsection (3)(a) that the certified service provider or model 2 seller is liable for failing to collect the correct amount of tax under this part on the incorrectly classified product category if the certified service provider or model 2 seller fails to correct the taxability of the item or transaction within 10 days after the day on which the certified service provider or model 2 seller receives the notice.
- (4) If a certified service provider or model 2 seller fails to correct the taxability of an item or transaction within 10 days after the day on which the certified service provider or model 2 seller receives the notice described in Subsection (3), the certified service provider or model 2 seller is liable for failing to collect the correct amount of tax under this part on the item or transaction.

Enacted by Chapter 384, 2008 General Session

**59-12-359 Purchaser relief from liability.**

- (1)
  - (a) Except as provided in Subsection (1)(b), a purchaser is relieved from a penalty under Section 59-1-401 for failure to pay a tax due under this part or an underpayment if:
    - (i) the purchaser's seller or certified service provider relies on incorrect data provided by the commission:
      - (A) on a tax rate;
      - (B) on a boundary;
      - (C) on a taxing jurisdiction; or

- (D) in the taxability matrix the commission provides in accordance with the agreement; or
- (ii) the purchaser, regardless of whether the purchaser holds a direct payment permit in accordance with Section 59-12-107.1, relies on incorrect data provided by the commission:
  - (A) on a tax rate;
  - (B) on a boundary;
  - (C) on a taxing jurisdiction; or
  - (D) in the taxability matrix the commission provides in accordance with the agreement.
- (b) For purposes of Subsection (1)(a), a purchaser is not relieved from a penalty under Section 59-1-401 for failure to pay a tax due under this part or an underpayment if the purchaser's, the purchaser's seller's, or the purchaser's certified service provider's reliance on incorrect data provided by the commission is as a result of conduct that is:
  - (i) fraudulent;
  - (ii) intentional; or
  - (iii) willful.
- (2) In addition to the relief from a penalty described in Subsection (1), a purchaser is not liable for a tax or interest under Section 59-1-402 for failure to pay a tax due under this part or an underpayment if:
  - (a) the purchaser's seller or certified service provider relies on:
    - (i) incorrect data provided by the commission:
      - (A) on a tax rate;
      - (B) on a boundary; or
      - (C) on a taxing jurisdiction; or
    - (ii) an erroneous classification by the commission:
      - (A) in the taxability matrix the commission provides in accordance with the agreement; and
      - (B) with respect to a term:
        - (I) in the library of definitions; and
        - (II) that is:
          - (Aa) listed as taxable or exempt;
          - (Bb) included in or excluded from "sales price"; or
          - (Cc) included in or excluded from a definition; or
  - (b) the purchaser, regardless of whether the purchaser holds a direct payment permit in accordance with Section 59-12-107.1, relies on:
    - (i) incorrect data provided by the commission:
      - (A) on a tax rate;
      - (B) on a boundary; or
      - (C) on a taxing jurisdiction; or
    - (ii) an erroneous classification by the commission:
      - (A) in the taxability matrix the commission provides in accordance with the agreement; and
      - (B) with respect to a term:
        - (I) in the library of definitions; and
        - (II) that is:
          - (Aa) listed as taxable or exempt;
          - (Bb) included in or excluded from "sales price"; or
          - (Cc) included in or excluded from a definition.

Enacted by Chapter 384, 2008 General Session